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FISCAL IMPACT STATEMENT

LS 6455 | **NOTE PREPARED:** Feb 26, 2008
BILL NUMBER: HB 1125 | **BILL AMENDED:** Feb 26, 2008

SUBJECT: Taxation.

FIRST AUTHOR: Rep. Goodin | **BILL STATUS:** 2nd Reading - 2nd House
FIRST SPONSOR: Sen. Kenley

FUNDS AFFECTED: X GENERAL | **IMPACT:** State & Local
X DEDICATED
FEDERAL

Summary of Legislation: (Amended) *Internal Revenue Code Reference Update* - The bill provides that for taxable years beginning after December 31, 2007, references in Indiana law to the Internal Revenue Code and related regulations refer to the law and regulations in effect on January 1, 2008.

Media Production Sales Tax Exemption - The bill extends until December 31, 2011 (instead of December 31, 2008) the sales tax exemption for property directly used in qualified media productions.

Media Production Expenditure Tax Credit - For purposes of the media production expenditure tax credit the bill does the following: (1) makes certain changes to the expenditures that are eligible for the credit; (2) requires a taxpayer to make at least $500,000 of eligible expenditures during a taxable year in order to be eligible for a credit; (3) adds affiliated groups to the definition of a taxpayer; (4) requires approval of each credit by the Indiana Economic Development Corporation (IEDC); (5) provides that the IEDC shall determine the extent, if any, to which a credit is refundable; and (6) provides that a taxpayer may not claim a carryover or carryback of any unused credit.

Federal Economic Stimulus Refund Exclusion - The bill excludes from state adjusted gross income any amount of the credit (including an advance refund of the credit) that is provided to an individual under the federal Economic Stimulus Act of 2008 and included in the individual's federal adjusted gross income.

NFL & NCAA Tax Exemption - The bill provides that property, revenues, expenditures, and transactions of the NFL or the NCAA in connection with a Super Bowl or a men's or women's Final Four conducted after December 31, 2011, are exempt from taxation in Indiana for all purposes and that those events are exempt from the Marion County Admissions Tax. (Current law applies only to the Super Bowl that was described in a bid specification document dated October 2006.)

Excise Tax on Non-Business Personal Property - The bill provides that recreational vehicles and truck campers are subject to an excise tax instead of the property tax on personal property beginning January 1, 2010, and makes an appropriation to cover distributions of the excise tax. The bill excludes nonbusiness personal property (other than mobile homes) from the definition of taxable personal property. It also permits the Department of Local Government Finance to adjust levies, tax rates, and recreational vehicle and truck camper excise tax distributions to adjust for the effects of the elimination of property taxes on nonbusiness personal property.

Effective Date: January 1, 2008 (retroactive); July 1, 2008; January 1, 2009.

Explanation of State Expenditures: *Excise Tax on Non-Business Personal Property* - Subject to appropriation, the overall net impact projected for the state under the excise tax provision would be increased expenditures of $120,000 for the Bureau of Motor Vehicles (BMV) in FY 2010, and a savings of $2.1 M in FY 2010, and $4.2 M in years following for Property Tax Replacement Credits (PTRC).

Property Tax Replacement Credit Savings: The state pays Property Tax Replacement Credits in the amount of 60% of school General Fund levies attributable to all property. The state also pays 20% of the portion of operating levies (including the remaining 40% of the school General Fund levy) that are attributable to real property and non-business personal property. PTRC is paid from the Property Tax Replacement Fund.

Subject to appropriation, and assuming full funding of these payments in CY 2010, if maximum levies are reduced as a result of this proposal (see *Explanation of Local Revenues*), the amount that the state would save from PTRC payments is estimated at approximately $4.2 M per year beginning in CY 2010.

Bureau of Motor Vehicles Expenses: The BMV would incur additional costs related to the startup and maintenance of the new excise tax program. BMV startup costs are estimated at $120,000 in FY 2010 for software work. Ongoing expenditures for valuation guides, printing, and decals are estimated at about $3,500 per year, including the startup year.

Department of State Revenue (DOR) -The DOR will incur additional expenses to revise tax forms, instructions, and computer programs to reflect the sales and income tax provisions of the bill. The Department's current level of resources should be sufficient to implement this change.

Explanation of State Revenues: *Internal Revenue Code Reference Update* - The bill updates the reference to the Internal Revenue Code (IRC) to incorporate all the federal changes made up to January 1, 2008. The current reference to the IRC pertains to all IRC provisions amended and in effect on January 1, 2007. A noncode section of the bill provides that the changes due to the IRC reference update are effective beginning in tax year 2008. The update would include changes as a result of the following federal acts:

(1) The Small Business and Work Opportunity Tax Act of 2007 (P.L. 110-28), signed into law May 25, 2007.
(2) The Clean Renewable Energy and Conservation Act of 2007 (P.L. 110-140), signed into law December 19, 2007.
(3) The Mortgage Forgiveness Debt Relief Act of 2007 (P.L. 110-142), signed into law December 20, 2007.
(4) The Tax Technical Corrections Act of 2007 (no P.L. number yet), signed into law December 29, 2007.

It is estimated that the fiscal impact from the bill will begin in FY 2009. The estimated fiscal impact of the bill and the federal acts generating the fiscal impact are summarized in the table below. The Clean Renewable Energy Conservation Act and the Tax Technical Corrections Act are not expected to generate a fiscal impact.

Provisions (Revenue impact in millions)	**FY 2009**
Small Business and Work Opportunity Tax Act	(0.16)
Mortgage Forgiveness Debt Relief Act	
Exclusion of discharged principal residence mortgage debt (expires 12/31/09)	(3.0 - 3.5)
Exclusion of benefits paid to volunteer firefighters or EMTs (expires 12/31/10)	(0.35)
Exclusion of gains from home sale by surviving spouse	(0.01)
Subtotal	(3.4 - 3.9)
Total Impact on State Revenue	**(3.5 - 4.0)**

Sales Tax Exemption for Motion Picture Production Expenditures - This bill will decrease Sales Tax collections by between $280,000 and $375,000 in FY 2009, and between $675,000 and $900,000 in FY 2010. This bill extends the Sales Tax exemption for property purchased for use in motion picture productions from purchases made before January 1, 2009, to purchases made before January 1, 2011. The amount of the decrease in Sales Tax collections could be less than the amount stated above due to the provision in current law that disallows a taxpayer from using this exemption and receiving the Media Production Expenditure Tax Credit for the same expenditures.

(Revised) *Media Production Expenditure Tax Credit* - The bill would limit the revenue loss from the existing tax credit for qualified media production expenditures to a maximum of $5 M annually. This would reduce the expected revenue loss from this tax credit by $6.2 M to $12.3 M annually. The revenue loss from the tax credit could potentially be less than $5 M annually under the bill depending upon IEDC approval of tax credits.

It is estimated that the tax credit under current statute (HEA 1388-2007) would result in a revenue loss from existing media production activities of about $11.2 M to $17.3 M annually. The potential revenue loss under current statute from new media production activities is indeterminable.

The bill makes the following changes to the tax credit:

(1) Eliminates the low and high expenditure pools for the tax credit and the different tax credit regimes for each pool. Current statute provides for: (a) a 15% credit for taxpayers making less than $6 M in qualified expenditures without an annual limit on these credits; and (b) up to a 15% credit as approved by the IEDC for taxpayers making at least $6 M in qualified expenditure with an aggregate limit of $5 M annually on these credits.
(2) Provides that IEDC approval of the tax credit and the $5 M aggregate credit limit applies in all cases.

(3) Provides that the tax credit is refundable to the extent approved by the IEDC.
(4) Provides that excess credits can not be carried back or carried forward.
(5) Changes the minimum annual expenditure requirement for a taxpayer to qualify for the tax credit from $50,000 or $100,000 depending on the type of expenditure under current statute, to $500,000.

(6) Eliminates food and lodging expenditures and a more general "other expenditure" category as expenditures that qualify for the tax credit.
(7) Provides that an affiliated group may qualify for the tax credit and defines an affiliated group.

Federal Economic Stimulus Refund Exclusion - This provision is not expected to have a fiscal impact as it is very likely that the advanced refund payments that taxpayers will receive in 2008 from the federal government would otherwise not be taxable under the Indiana individual Adjusted Gross Income (AGI) Tax. The provision specifically excluding the credit and advanced refund of the credit from Indiana AGI ensures that these amounts will not be taxable.

The federal Economic Stimulus Act of 2008 provides for the advanced payment during 2008 of a refundable federal tax credit that taxpayers would claim against federal tax liability when filing their 2008 federal tax return in 2009. As a result, the federal tax credit (and advanced payment of the tax credit) should not affect federal AGI which is the computational starting point for the Indiana individual AGI Tax.

NFL & NCAA Tax Exemption - The bill provides that the existing state and local tax exemption for activities relating to an NFL Super Bowl apply to a Super Bowl conducted after December 31, 2011; and extends the tax exemption to NCAA Men's and Women's Final Fours conducted after December 31, 2011. Under current statute, the state and local tax exemption applies only to a Super Bowl for which Indianapolis submitted a bid in October 2006.

The bill exempts from all state and local taxes: (1) property owned by the NFL and its affiliates, revenue of the NFL and its affiliates, and expenditures and transactions of the NFL and its affiliates in connection with a Super Bowl, and resulting from holding a Super Bowl in Indiana or making preparatory advance visits to Indiana in connection with a Super Bowl; and (2) property owned by the NCAA and its affiliates, revenue of the NCAA and its affiliates, and expenditures and transactions of the NCAA and its affiliates in connection with a Final Four, and resulting from holding a Final Four in Indiana or making preparatory advance visits to Indiana in connection with a Final Four. The tax exemption applies only to such events conducted in Indiana after December 31, 2011.

The amount of state taxes from the NFL, NCAA, and their affiliates that could potentially be foregone due to this provision is indeterminable. However, this could be offset by a potentially significant increase in other tax revenue generated from the events.

Excise Tax on Non-Business Personal Property - BMV: Assuming that the BMV administers the collection of the excise tax on these non-business personal property similar to the collection of auto excise taxes, BMV could receive additional revenue from allowable service charges.

State Fair and State Forestry: The state levies a small tax rate for State Fair and State Forestry. Any reduction in the assessed value base will reduce the property tax revenue for these two funds. The removal of the non-business personal property AV would cause a revenue reduction of about $19,250 per year beginning in CY 2010.

Background on IRC Reference Update - The Small Business and Work Opportunity Tax Act includes various provisions relating to the tax treatment of Subchapter S Corporations. The Mortgage Forgiveness Debt Relief Act includes provisions excluding from gross income: (1) any income received by a taxpayer by reason of discharge, either in whole or in part, of debt on the taxpayers' principal residence (see discussion below); (2) up to $500,000 of the gain from the sale of a principal residence by a surviving spouse if the sale takes place within two years of the death of the spouse; and (3) benefits provided to volunteer firefighters and EMS personnel (see discussion below).

Mortgage Discharge Exclusion: The exclusion for discharged mortgage debt is effective under the bill beginning in 2008 and expires at the end of 2009. Thus, the revenue loss under the bill would occur in FY 2009 and FY 2010. It is important to note that the revenue loss from the mortgage discharge exclusion could be higher than the estimate provided in the table due to the following factors:

> (1) The annual number of foreclosure sales occurring in 2008 and 2009 is higher than recent levels. The revenue loss estimate assumes 3,000 to 3,500 foreclosure sales based on 2007 totals.
> (2) The debt amounts being forgiven by creditors on average are more than assumed for the revenue loss estimate. The revenue loss estimate assumes an average of $30,000 in debt forgiven on foreclosure sales.
> (3) Mortgage debt is forgiven by creditors under circumstances other than foreclosure sales such as short sales of homes prior to commencing foreclosure proceedings. The number of short sales transactions and other debt forgiveness that may occur is indeterminable.

Volunteer Firefighter/EMS Personnel Exclusion: The exclusion for benefits paid to volunteer firefighters and EMS personnel is effective beginning in 2008 and expires at the end of 2010. Thus the revenue loss from this exclusion would occur from FY 2009 through FY 2011. The exclusion is limited to $360 per year per volunteer firefighter or EMT. It is estimated that there are approximately 20,000 volunteer firefighters, 8,000 volunteer EMTs, and 500 volunteer paramedics statewide that could potentially qualify for the exclusion.

Background on Tax Revenue Distributions - Sales Tax revenue is deposited in the Property Tax Replacement Fund (50%), the state General Fund (49.067%), the Public Mass Transportation Fund (0.76%), the Commuter Rail Service Fund (0.14%), and the Industrial Rail Service Fund (0.033%). Revenue from the corporate AGI Tax is distributed to the state General Fund. The revenue from the individual AGI Tax is deposited in the state General Fund (86%) and the Property Tax Replacement Fund (14%).

Explanation of Local Expenditures: *Excise Tax on Non-Business Personal Property* - This bill requires county auditors and assessing officials to provide the BMV and the DOR with the information from personal property tax returns needed to implement the bill's provisions. Expenditures would be subject to both administrative and legislative actions.

Explanation of Local Revenues: *NFL & NCAA Tax Exemption* - The bill exempts the NFL and its affiliates from all local taxes in connection with or resulting from a Super Bowl conducted in Indiana after December 31, 2011; and provides the same exemption for the NCAA for Men's and Women's Final Fours conducted in Indiana after that date. (See discussion in Explanation of State Revenues.)

The bill also provides that the Marion County Admission Tax (equal to 6% of the price of admission to events at certain venues including Lucas Oil Stadium once it is open) does not apply to a Super Bowl or Final Four conducted after December 31, 2011. The amount of local taxes from the NFL, NCAA, and their affiliates and the amount of admission tax that could potentially be foregone due to these provisions is indeterminable. However, this could be offset by a potentially significant increase in other tax revenue generated from this event.

(Revised) *Excise Tax on Non-Business Personal Property* - Under current law, RVs and truck campers and other recreational vehicles are assessed as non-business personal property. Taxpayers must list this property on an individual-owned property tax return filed with the township assessor. The assessed value of this property becomes part of the tax base, and the taxpayer pays property tax on the non-business property based on the prevailing property tax rate where the property is located. This bill would remove this class of property from property taxation and instead require that the owners of this class of property pay an excise tax beginning in CY 2010.

Based on taxing county-level assessment summaries and estimated 2010 tax rates, the CY 2010 net property tax on non-business personal property is estimated at $14.7 M. The property tax base would be reduced by approximately $802 M.

According to BMV records, there were 37,196 RVs registered in Indiana in 2006. That number has decreased approximately 26% from 2004. The number of truck campers, all-terrain vehicles, travel trailers, snowmobiles, rowboats, canoes and other non-motorized boats is not known at this time. Because the breakdown of recreational vehicles by number, age, and original price is unknown, *the revenue generated from the excise tax rate structure cannot be estimated.*

In CY 2010, maximum permissible levies could be reduced to account for the removal of non-business personal property. This provision would ensure that property tax rates remain unchanged and that no tax shifting occurs between owners of non-business personal property and owners of other property. On the other hand, the DLGF is authorized to modify property tax levies and property tax rates of taxing units to mitigate the effects of the elimination of the property taxation of non-business personal property. However, before imposing any additional taxes, the DLGF may order that excise tax revenues received in a county be first used to replace any lost revenues.

Depending on the actual amount of revenue generated from the excise tax on non-business personal property, total local revenue could be the same, higher, or lower under this bill.

Internal Revenue Code Reference Update - The IRC update could potentially affect taxable income of individual taxpayers. The impact on counties imposing local option income taxes is indeterminable and would vary.

State Agencies Affected: DLGF; BMV; Department of Insurance; DOR, IEDC.

Local Agencies Affected: County Auditors; counties with local option income taxes.

Information Sources: Realtytrac, http://www.realtytrac.com/. STATS Indiana, http://www.stats.indiana.edu/. U.S. Census Bureau, http://www.census.gov/. U.S. Congress, Joint Committee on Taxation, http://www.house.gov/jct/tableofcnts.html. Michelle Milliken, Indiana Department of Homeland Security, (317) 234-0945. Joanna Cornwell, Indiana Department of Homeland Security, (317) 234-4554; Local Government Database; Dollyne Sherman, BMV, 317-233-0216. Internal Revenue Service, Statistics of Income: Sole Proprietorship Returns (2000 to 2004). 2002 Economic Census. 2004 County Business Patterns.

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